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WESTAR MARINE SERVICES  
AND CROSS LINK, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ROBERT GOLDSWORTHY ) Case No.: C 06-4025MHP  
Plaintiff, )  
v. )  
Tudor-Saliba Corporation, Koch Construction )  
Company, Inc. and Tidewater Marine )  
Western, Inc., all doing business as Tudor- )  
Saliba/Koch/Tidewater, a joint venture )  
company, Westar Marine Services, Cross )  
Link, Inc., and DOES 1-10, *in personam*, and )  
M/V PROWLER & M/V ROVER, their )  
engines, tackle, apparel, furniture, etc., *in* )  
*rem*, )  
) **STIPULATION AND [PROPOSED]**  
) **ORDER BETWEEN TUTOR-**  
) **SALIBA/KOCH/TIDEWATER, JV,**  
) **WESTAR MARINE SERVICES,**  
) **CROSS LINK, INC. AND**  
) **PLAINTIFF CONCERNING THE**  
) **NAMING OF THE JOINT**  
) **VENTURE IN THE COMPLAINT**  
) **AND DISMISSAL OF JOINT**  
) **VENTURE MEMBERS**

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6 **STIPULATION**  
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9 (1) Whereas, on June 29, 2006 the plaintiff Robert Goldsworthy ("Plaintiff")  
10 filed a "Seaman's Complaint for Personal Injuries" in the United States  
11 District Court, Northern District of California, case number C06-4025 MPH  
12 ("Complaint").  
13 (2) The Plaintiff named as defendants "Tudor-Saliba Corporation, Koch  
14 Construction Company, Inc. and Tidewater Marine Western, Inc., all doing  
15 business as Tudor-Saliba/Koch/Tidewater, a joint venture company" ("Joint  
16 Venture") and Westar Marine Services, Cross Link, Inc., DOES 1-10 *in  
17 personam* and M/V Prowler and M/V Rover, their engines, tackle, apparel,  
18 furniture, etc., *in rem*.  
19 (3) However, the Plaintiff incorrectly identified the Joint Venture and the  
20 entities that comprised the Joint Venture. The Joint Venture is named Tutor-  
21 Saliba/Koch/Tidewater JV. The Joint Venture consists of Tutor-Saliba  
22 Corporation, Koch Skanska, Inc., and Tidewater Construction Corporation.  
23 (4) Whereas, Plaintiff wishes to file an amended complaint properly identifying  
24 (factually) the proper Tutor-Saliba/Koch/Tidewater JV members, naming  
25 only the Joint Venture as a defendant and deleting any reference to the  
26 incorrectly identified parties.  
27 (5) Whereas, Plaintiff's First Amended Complaint e-filed at 9:25 am on August  
28 1, 2006 (which was intended to address these issues) was inadvertently e-

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DLU:Goldsworthy/2416

filed after the Answer of Defendant Westar was e-filed at 5:40 p.m. on July 31, 2006, and thus was ineffective and should be stricken as having been filed without leave of Court.

- (6) Whereas Plaintiff, Tutor-Saliba/Koch/Tidewater JV and Westar are agreeable to resolving the issues related to Tutor-Saliba/Koch/Tidewater JV by the filing of the Proposed Second Amended Complaint filed herewith.
- (7) Whereas Tutor-Saliba/Koch/Tidewater JV will need some additional time to file its answer to the Second Amended Complaint and to prepare its initial disclosures."

IT IS HEREBY STIPULATED by and between the parties to this action, and the parties respectfully request, through their respective counsel, that the Court order, that:

- (1) Plaintiff may file his Proposed Second Amended Complaint filed herewith.
- (2) Tutor-Saliba/Koch/Tidewater JV will file its answer within twenty (20) days of the signing of the following proposed order and the filing of the Second Amended Complaint. The Answer previously filed by Westar on July 31, 2006 will be deemed an answer to the Second Amended Complaint (all allegations as to Westar remaining unchanged)."
- (3) The Plaintiff, at his sole discretion, will be entitled to further amend the Complaint naming Tutor-Saliba Corporation, Koch Skanska, Inc., and Tidewater Construction Corporation as defendants should he conclude in good faith that the evidence warrants his including said individual members as a party to the action. Any such amendment shall be made, filed and served at least thirty-five (35) days prior to the close of discovery as set by the Court, may be personally served on defense counsel and will require a responsive pleading to be filed by the individual members within two weeks of said service.

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(4) The statute of limitations to any action for negligence, or similar claim, that the Plaintiff may assert against Tutor-Saliba Corporation, Koch Skanska, Inc., and Tidewater Construction Corporation, as individual members or partners of the Joint Venture for the incident described in the Complaint is hereby tolled. Unless released by a Settlement Agreement or Release, the statute of limitations as to the individual members or partners of the Joint Venture will begin to run upon the earliest of: 1) an order from the court, pursuant to motion or otherwise, dismissing Tutor-Saliba/Koch/Tidewater JV as a defendant to the Complaint; 2) the Plaintiff's dismissal, with or without prejudice, of Tutor-Saliba/Koch/Tidewater JV; 3) the jury, judge or factfinder rendering a verdict as to all then existing causes of action filed by the Plaintiff and against Tutor-Saliba/Koch/Tidewater JV whether in a court of law or at arbitration.

(5) The parties further stipulate and request that the Court order that the current preliminary dates relating to: a) **ADR certification** currently scheduled to be completed by October 2, 2006; b) **Initial disclosure** currently scheduled to be completed by October 16, 2006; and c) the **Case Management Conference** currently scheduled for October 23, 2006 each be continued for twenty one (21) days. The parties stipulate and request that the Court order the following preliminary dates:

**ADR certification:** To be completed by October 23, 2006

**Initial disclosure:** To be completed by November 6, 2006

**CMC:** November 13, 2006, 4:00 p.m., Courtroom 15, 18<sup>th</sup> Floor, 450 Golden Gate Ave., San Francisco, CA.

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IMU.Goldsborough/2416





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CMC:

November 13, 2006, 4:00 p.m., Courtroom 15, 18<sup>th</sup>

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Floor, 450 Golden Gate Ave., San Francisco, CA.

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Dated: October 4, 2006

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